

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

VANESSA VENTRY, Officer, Lancaster
County Correctional Center Adult
Facility; and BLACK LIVES MATTER
MOVEMENT,

Defendants.

8:21CV68

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's "Motion to Waive Leave Of In Forma Pauperis & Motion to Waive Filing Fee" which he included with his Complaint and was docketed as a motion for leave to proceed in forma pauperis. (Filing 2.) However, Plaintiff's motion does not comply with the terms of 28 U.S.C. § 1915, the statute authorizing proceedings in forma pauperis. *See* 28 U.S.C. § 1915(a)(1) (requiring the plaintiff to submit "an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor"). Plaintiff has the choice of either submitting the \$402.00 filing and administrative fees to the clerk's office or submitting a request to proceed in forma pauperis that complies with 28 U.S.C. § 1915.¹ Failure to take either action within 30 days will result in the court dismissing this case without further notice to Plaintiff.

¹ If Plaintiff is granted leave to proceed IFP in this matter, he will be allowed to pay the court's \$350 filing fee in installments. *See* [28 U.S.C. § 1915\(b\)\(1\)](#); *In re Tyler*, [110 F.3d 528, 529–30 \(8th Cir. 1997\)](#). He would not be subject to the \$52.00 administrative fee assessed to non-IFP plaintiffs.

IT IS THEREFORE ORDERED that:

1. Plaintiff's "Motion to Waive Leave Of In Forma Pauperis & Motion to Waive Filing Fee," construed as a request to proceed in forma pauperis (filing 2), is denied without prejudice to reassertion in a motion to proceed in forma pauperis that complies with 28 U.S.C. § 1915.

2. Plaintiff is directed to submit the \$402.00 fees to the clerk's office or submit a request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice.

3. The clerk of the court is directed to send to Plaintiff the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").

4. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: **March 31, 2021**: Check for MIFP or payment.

Dated this 1st day of March, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge